

STATE OF DELAWARE  
DEPARTMENT OF FINANCE  
DIVISION OF REVENUE  
601 DELAWARE AVENUE  
WILMINGTON, DELAWARE 19899

TAX NEWSGRAM 73-18

August 2, 1973

- UNFAIR CIGARETTE SALES ACT
- REGULATIONS ESTABLISHING MINIMUM PRICES

House Bill No. 415, approved by the Governor on July 17, 1973, adds a new Chapter 26 to Title 6, Delaware Code (the Unfair Cigarette Sales Act) which prohibits the sale of cigarettes at wholesale or retail at prices below those designated in the law as "cost of the wholesaler" and "cost of the retailer," if such sale is made with intent to injure competitors or substantially lessen competition. Proof of a sale of cigarettes "at less than cost" to the seller as defined in the Act constitutes prima facie evidence of such intent.

This regulation is issued pursuant to authority contained in Section 2608, Title 6, Delaware Code, as amended by House Bill 415. On the basis of the facts and other evidence available relating to the various factors entering into the definition of "basic cost of cigarettes," "cost of the wholesaler," the "minimum" prices at wholesale and retail required by the Act and the procedures by which they are derived are hereby determined and established as set forth in the attachment hereto dated August 2, 1973. When future changes in costs of cigarettes to wholesalers (or other factors) demonstrate a need for revision in the prices established therein, a new determination will be issued.

If any individual wholesaler or retailer can establish that his cost of doing business is less than the 5% or 8% mark-up for wholesaler and retailer respectively reflected in the above determination, then upon presentation of such evidence to the Division of Revenue the minimum wholesale or retail price may be adjusted.

Alleged violation of this Act or this regulation, upon complaint of any affected citizen may be enjoined by petition to the Court of Chancery. Further if, after proper hearing, the Secretary of Finance, or his delegate, finds that any wholesaler or retailer has violated the provisions of this Act, the cigarette vendors license may be suspended or revoked, and the violator may be subject to a fine of \$1,000 for the first offense, or \$5,000 for each subsequent offense.

  
Russell M. Cory  
Director of Revenue

jvm

DISTRIBUTION: B and C

DELAWARE DIVISION OF REVENUE - MINIMUM CIGARETTE PRICES - TAX NEWSGRAM 73-18 AUGUST 2, 1973

TYPES OF CIGARETTES		Invoice Cost to Wholesaler per Thousand	Less Est. Cash or Trade Discounts 2%	Plus State Tax per Thousand Cigarettes	Total Cost to Wholesaler With Tax	Plus 5% Minimum Wholesale Markup	Minimum Wholesale Price per Carton of 200	Plus 8% Minimum Retail Price per Carton of 200
R. J. Reynolds	) Regulars							
Phillip Morris	) Kings	\$10.45	\$10.25	\$7.00	\$17.25	\$18.12	\$3.63	\$3.92
American Tobacco	) Filters							
R. J. Reynolds	) 100 MM							
Phillip Morris	) 100 MM	\$10.95	\$10.74	\$7.00	\$17.74	\$18.63	\$3.73	\$4.03
American Tobacco	)							
Pall Mall Kings	)							
Lucky Strike Regular	)							
Herbert Tareyton	)	\$10.56	\$10.35	\$7.00	\$17.35	\$18.22	\$3.65	\$3.95
Brown & Williamson	) Regulars							
Liggett & Meyers	) Kings							
Lorillard Corp.	) Filters							
Sano	)							
Marvel	)	\$10.60	\$10.39	\$7.00	\$17.39	\$18.26	\$3.66	\$3.96
Brown & Williamson	) 100 MM							
Liggett & Meyers	) 100 MM	\$11.10	\$10.88	\$7.00	\$17.88	\$18.78	\$3.76	\$4.06
Lorillard Corp.	)							
Players	)	\$11.50	\$11.27	\$7.00	\$18.27	\$19.19	\$3.84	\$4.15
Benson & Hedges	) Box/Deluxe							
	) Regulars							
	) Kings	\$13.25	\$12.99	\$7.00	\$19.99	\$20.99	\$4.20	\$4.54
DeMaurier	) Box	\$13.40	\$13.14	\$7.00	\$20.14	\$21.15	\$4.23	\$4.57
English Ovals	) Box							
	) Regulars							
	) Kings	\$13.85	\$13.58	\$7.00	\$20.58	\$21.61	\$4.33	\$4.68

Russell M. Coffy  
Director of Revenue